

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing
5 Section 1-109.1 and by adding Section 1-113.21 as follows:

6 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

7 Sec. 1-109.1. Allocation and Delegation of Fiduciary
8 Duties.

9 (1) Subject to the provisions of Section 22A-113 of this
10 Code and subsections (2) and (3) of this Section, the board of
11 trustees of a retirement system or pension fund established
12 under this Code may:

13 (a) Appoint one or more investment managers as
14 fiduciaries to manage (including the power to acquire and
15 dispose of) any assets of the retirement system or pension
16 fund; and

17 (b) Allocate duties among themselves and designate
18 others as fiduciaries to carry out specific fiduciary
19 activities other than the management of the assets of the
20 retirement system or pension fund.

21 (2) The board of trustees of a pension fund established
22 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not
23 transfer its investment authority, nor transfer the assets of

1 the fund to any other person or entity for the purpose of
2 consolidating or merging its assets and management with any
3 other pension fund or public investment authority, unless the
4 board resolution authorizing such transfer is submitted for
5 approval to the contributors and pensioners of the fund at
6 elections held not less than 30 days after the adoption of such
7 resolution by the board, and such resolution is approved by a
8 majority of the votes cast on the question in both the
9 contributors election and the pensioners election. The
10 election procedures and qualifications governing the election
11 of trustees shall govern the submission of resolutions for
12 approval under this paragraph, insofar as they may be made
13 applicable.

14 (3) Pursuant to subsections (h) and (i) of Section 6 of
15 Article VII of the Illinois Constitution, the investment
16 authority of boards of trustees of retirement systems and
17 pension funds established under this Code is declared to be a
18 subject of exclusive State jurisdiction, and the concurrent
19 exercise by a home rule unit of any power affecting such
20 investment authority is hereby specifically denied and
21 preempted.

22 (4) For the purposes of this Code, "emerging investment
23 manager" means a qualified investment adviser that manages an
24 investment portfolio of at least \$10,000,000 but less than
25 \$10,000,000,000 and is a "minority owned business", "female
26 owned business" or "business owned by a person with a

1 disability" as those terms are defined in the Business
2 Enterprise for Minorities, Females, and Persons with
3 Disabilities Act.

4 It is hereby declared to be the public policy of the State
5 of Illinois to encourage the trustees of public employee
6 retirement systems, pension funds, and investment boards to use
7 emerging investment managers in managing their system's
8 assets, encompassing all asset classes, and increase the
9 racial, ethnic, and gender diversity of its fiduciaries, to the
10 greatest extent feasible within the bounds of financial and
11 fiduciary prudence, and to take affirmative steps to remove any
12 barriers to the full participation in investment opportunities
13 afforded by those retirement systems, pension funds, and
14 investment boards.

15 On or before January 1, 2010, a retirement system, pension
16 fund, or investment board subject to this Code, except those
17 whose investments are restricted by Section 1-113.2 of this
18 Code, shall adopt a policy that sets forth goals for
19 utilization of emerging investment managers. This policy shall
20 include quantifiable goals for the management of assets in
21 specific asset classes by emerging investment managers. The
22 retirement system, pension fund, or investment board shall
23 establish 3 separate goals for: (i) emerging investment
24 managers that are minority owned businesses; (ii) emerging
25 investment managers that are female owned businesses; and (iii)
26 emerging investment managers that are businesses owned by a

1 person with a disability. The goals established shall be based
2 on the percentage of total dollar amount of investment service
3 contracts let to minority owned businesses, female owned
4 businesses, and businesses owned by a person with a disability,
5 as those terms are defined in the Business Enterprise for
6 Minorities, Females, and Persons with Disabilities Act. The
7 retirement system, pension fund, or investment board shall
8 annually review the goals established under this subsection.

9 If in any case an emerging investment manager meets the
10 criteria established by a board for a specific search and meets
11 the criteria established by a consultant for that search, then
12 that emerging investment manager shall receive an invitation by
13 the board of trustees, or an investment committee of the board
14 of trustees, to present his or her firm for final consideration
15 of a contract. In the case where multiple emerging investment
16 managers meet the criteria of this Section, the staff may
17 choose the most qualified firm or firms to present to the
18 board.

19 The use of an emerging investment manager does not
20 constitute a transfer of investment authority for the purposes
21 of subsection (2) of this Section.

22 (5) Each retirement system, pension fund, or investment
23 board subject to this Code, except those whose investments are
24 restricted by Section 1-113.2 of this Code, shall establish a
25 policy that sets forth goals for increasing the racial, ethnic,
26 and gender diversity of its fiduciaries, including its

1 consultants and senior staff. Each system, fund, and investment
2 board shall annually review the goals established under this
3 subsection.

4 (6) On or before January 1, 2010, a retirement system,
5 pension fund, or investment board subject to this Code, except
6 those whose investments are restricted by Section 1-113.2 of
7 this Code, shall adopt a policy that sets forth goals for
8 utilization of businesses owned by minorities, females, and
9 persons with disabilities for all contracts and services. The
10 goals established shall be based on the percentage of total
11 dollar amount of all contracts let to minority owned
12 businesses, female owned businesses, and businesses owned by a
13 person with a disability, as those terms are defined in the
14 Business Enterprise for Minorities, Females, and Persons with
15 Disabilities Act. The retirement system, pension fund, or
16 investment board shall annually review the goals established
17 under this subsection.

18 (7) On or before January 1, 2010, a retirement system,
19 pension fund, or investment board subject to this Code, except
20 those whose investments are restricted by Section 1-113.2 of
21 this Code, shall adopt a policy that sets forth goals for
22 increasing the utilization of minority broker-dealers. For the
23 purposes of this Code, "minority broker-dealer" means a
24 qualified broker-dealer who meets the definition of "minority
25 owned business", "female owned business", or "business owned by
26 a person with a disability", as those terms are defined in the

1 Business Enterprise for Minorities, Females, and Persons with
2 Disabilities Act. The retirement system, pension fund, or
3 investment board shall annually review the goals established
4 under this Section.

5 (8) Each retirement system, pension fund, and investment
6 board subject to this Code, except those whose investments are
7 restricted by Section 1-113.2 of this Code, shall submit a
8 report to the Governor and the General Assembly by January 1 of
9 each year that includes the following: (i) the policy adopted
10 under subsection (4) of this Section, including the names and
11 addresses of the emerging investment managers used, percentage
12 of the assets under the investment control of emerging
13 investment managers for the 3 separate goals, and the actions
14 it has undertaken to increase the use of emerging investment
15 managers, including encouraging other investment managers to
16 use emerging investment managers as subcontractors when the
17 opportunity arises; (ii) the policy adopted under subsection
18 (5) of this Section; (iii) the policy adopted under subsection
19 (6) of this Section; ~~and~~ (iv) the policy adopted under
20 subsection (7) of this Section, including specific actions
21 undertaken to increase the use of minority broker-dealers; and
22 (v) the policy adopted under subsection (9) of this Section.

23 (9) On or before February 1, 2015, a retirement system,
24 pension fund, or investment board subject to this Code, except
25 those whose investments are restricted by Section 1-113.2 of
26 this Code, shall adopt a policy that sets forth goals for

1 increasing the utilization of minority investment managers.
2 For the purposes of this Code, "minority investment manager"
3 means a qualified investment manager that manages an investment
4 portfolio and meets the definition of "minority owned
5 business", "female owned business", or "business owned by a
6 person with a disability", as those terms are defined in the
7 Business Enterprise for Minorities, Females, and Persons with
8 Disabilities Act.

9 It is hereby declared to be the public policy of the State
10 of Illinois to encourage the trustees of public employee
11 retirement systems, pension funds, and investment boards to use
12 minority investment managers in managing their systems'
13 assets, encompassing all asset classes, and to increase the
14 racial, ethnic, and gender diversity of their fiduciaries, to
15 the greatest extent feasible within the bounds of financial and
16 fiduciary prudence, and to take affirmative steps to remove any
17 barriers to the full participation in investment opportunities
18 afforded by those retirement systems, pension funds, and
19 investment boards.

20 The retirement system, pension fund, or investment board
21 shall establish 3 separate goals for: (i) minority investment
22 managers that are minority owned businesses; (ii) minority
23 investment managers that are female owned businesses; and (iii)
24 minority investment managers that are businesses owned by a
25 person with a disability. The retirement system, pension fund,
26 or investment board shall annually review the goals established

1 under this Section.

2 If in any case a minority investment manager meets the
3 criteria established by a board for a specific search and meets
4 the criteria established by a consultant for that search, then
5 that minority investment manager shall receive an invitation by
6 the board of trustees, or an investment committee of the board
7 of trustees, to present his or her firm for final consideration
8 of a contract. In the case where multiple minority investment
9 managers meet the criteria of this Section, the staff may
10 choose the most qualified firm or firms to present to the
11 board.

12 The use of a minority investment manager does not
13 constitute a transfer of investment authority for the purposes
14 of subsection (2) of this Section.

15 (Source: P.A. 96-6, eff. 4-3-09.)

16 (40 ILCS 5/1-113.21 new)

17 Sec. 1-113.21. Contracts for services.

18 (a) Beginning January 1, 2015, no contract, oral or
19 written, for investment services, consulting services, or
20 commitment to a private market fund shall be awarded by a
21 retirement system, pension fund, or investment board
22 established under this Code unless the investment advisor,
23 consultant, or private market fund first discloses:

24 (1) the number of its investment and senior staff and
25 the percentage of its investment and senior staff who are

1 (i) a minority person, (ii) a female, and (iii) a person
2 with a disability; and

3 (2) the number of contracts, oral or written, for
4 investment services, consulting services, and professional
5 and artistic services that the investment advisor,
6 consultant, or private market fund has with (i) a minority
7 owned business, (ii) a female owned business, or (iii) a
8 business owned by a person with a disability; and

9 (3) the number of contracts, oral or written, for
10 investment services, consulting services, and professional
11 and artistic services the investment advisor, consultant,
12 or private market fund has with a business other than (i) a
13 minority owned business, (ii) a female owned business or
14 (iii) a business owned by a person with a disability, if
15 more than 50% of services performed pursuant to the
16 contract are performed by (i) a minority person, (ii) a
17 female, and (iii) a person with a disability.

18 (b) The disclosures required by this Section shall be
19 considered, within the bounds of financial and fiduciary
20 prudence, prior to the awarding of a contract, oral or written,
21 for investment services, consulting services, or commitment to
22 a private market fund.

23 (c) For the purposes of this Section, the terms "minority
24 person", "female", "person with a disability", "minority owned
25 business", "female owned business", and "business owned by a
26 person with a disability" have the same meaning as those terms

1 have in the Business Enterprise for Minorities, Females, and
2 Persons with Disabilities Act.

3 (d) For purposes of this Section, the term "private market
4 fund" means any private equity fund, private equity fund of
5 funds, venture capital fund, hedge fund, hedge fund of funds,
6 real estate fund, or other investment vehicle that is not
7 publicly traded.

8 Section 10. The Illinois Prepaid Tuition Act is amended by
9 changing Section 30 as follows:

10 (110 ILCS 979/30)

11 Sec. 30. Investment Advisory Panel duties and
12 responsibilities.

13 (a) Advice and review. The panel shall offer advice and
14 counseling regarding the investments of the Illinois prepaid
15 tuition program with the objective of obtaining the best
16 possible return on investments consistent with actuarial
17 soundness of the program. The panel is required to annually
18 review and advise the Commission on provisions of the strategic
19 investment plan for the prepaid tuition program. The panel is
20 also charged with reviewing and advising the Commission with
21 regard to the annual report that describes the current
22 financial condition of the program. The panel at its own
23 discretion also may advise the Commission on other aspects of
24 the program.

1 (b) Investment plan. The Commission annually shall adopt a
2 comprehensive investment plan for purposes of this Section. The
3 comprehensive investment plan shall specify the investment
4 policies to be utilized by the Commission in its administration
5 of the Illinois Prepaid Tuition Trust Fund created by Section
6 35. The Commission may direct that assets of those Funds be
7 placed in savings accounts or may use the same to purchase
8 fixed or variable life insurance or annuity contracts,
9 securities, evidence of indebtedness, or other investment
10 products pursuant to the comprehensive investment plan and in
11 such proportions as may be designated or approved under that
12 plan. The Commission shall invest such assets with the care,
13 skill, prudence, and diligence under the circumstances then
14 prevailing that a prudent man acting in a like capacity and
15 familiar with such matters would use in the conduct of an
16 enterprise of a like character with like aims, and the
17 Commission shall diversify the investments of such assets so as
18 to minimize the risk of large losses, unless under the
19 circumstances it is clearly prudent not to do so. Those
20 insurance, annuity, savings, and investment products shall be
21 underwritten and offered in compliance with applicable federal
22 and State laws, rules, and regulations by persons who are
23 authorized thereunder to provide those services. The
24 Commission shall delegate responsibility for preparing the
25 comprehensive investment plan to the Executive Director of the
26 Commission. Nothing in this Section shall preclude the

1 Commission from contracting with a private corporation or
2 institution to provide such services as may be a part of the
3 comprehensive investment plan or as may be deemed necessary for
4 implementation of the comprehensive investment plan,
5 including, but not limited to, providing consolidated billing,
6 individual and collective record keeping and accounting, and
7 asset purchase, control, and safekeeping.

8 (b-5) Investment duties. Beginning January 1, 2015, with
9 respect to any investments for which it is responsible under
10 this Section or any other law, the Commission shall be subject
11 to the same requirements as are imposed upon the board of
12 trustees of a retirement system under Sections 1-109.1(5.1),
13 1-109.1(9), and 1-113.21 of the Illinois Pension Code, to the
14 extent that those requirements are not in direct conflict with
15 any other requirement of law to which the Commission is
16 subject.

17 (c) Program management. The Commission may not delegate its
18 management functions, but may arrange to compensate for
19 personalized investment advisory services rendered with
20 respect to any or all of the investments under its control an
21 investment advisor registered under Section 8 of the Illinois
22 Securities Law of 1953 or any bank or other entity authorized
23 by law to provide those services. Nothing contained herein
24 shall preclude the Commission from subscribing to general
25 investment research services available for purchase or use by
26 others. The Commission also shall have authority to compensate

1 for accounting, computing, and other necessary services.

2 (d) Annual report. The Commission shall annually prepare or
3 cause to be prepared a report setting forth in appropriate
4 detail an accounting of all Illinois prepaid tuition program
5 funds and a description of the financial condition of the
6 program at the close of each fiscal year. Included in this
7 report shall be an evaluation by at least one nationally
8 recognized actuary of the financial viability of the program.
9 This report shall be submitted to the Governor, the President
10 of the Senate, the Speaker of the House of Representatives, the
11 Auditor General, and the Board of Higher Education on or before
12 March 1 of the subsequent fiscal year. This report also shall
13 be made available to purchasers of Illinois prepaid tuition
14 contracts and shall contain complete Illinois prepaid tuition
15 contract sales information, including, but not limited to,
16 projected postsecondary enrollment data for qualified
17 beneficiaries.

18 (e) Marketing plan. Selection of a marketing agent for the
19 Illinois prepaid tuition program must be approved by the
20 Commission. At least once every 3 years, the Commission shall
21 solicit proposals for marketing of the Illinois prepaid tuition
22 program in accordance with the Illinois Securities Law of 1953
23 and any applicable provisions of federal law. The entity
24 designated pursuant to this paragraph shall serve as a
25 centralized marketing agent for the program and shall have
26 exclusive responsibility for marketing the program. No

1 contract for marketing the Illinois prepaid tuition program
2 shall extend for longer than 3 years. Any materials produced
3 for the purpose of marketing the program shall be submitted to
4 the Executive Director of the Commission for approval before
5 they are made public. Any eligible institution may distribute
6 marketing materials produced for the program, so long as the
7 Executive Director of the Commission approves the distribution
8 in advance. Neither the State nor the Commission shall be
9 liable for misrepresentation of the program by a marketing
10 agent.

11 (f) Accounting and audit. The Commission shall annually
12 cause to be prepared an accounting of the trust and shall
13 transmit a copy of the accounting to the Governor, the
14 President of the Senate, the Speaker of the House, and the
15 minority leaders of the Senate and House of Representatives.
16 The Commission shall also make available this accounting of the
17 trust to any purchaser of an Illinois prepaid tuition contract,
18 upon request. The accounts of the Illinois prepaid tuition
19 program shall be subject to annual audits by the Auditor
20 General or a certified public accountant appointed by the
21 Auditor General.

22 (Source: P.A. 96-1282, eff. 7-26-10.)